

THE EFFECTIVE DATE OF THIS ORDINANCE IS December 18, 2003

ORDINANCE NO. 03-19-342

OPINION, FINDINGS AND ORDINANCE
OF
THE BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

Re: Application of Hailey Development

OPINION/FINDINGS

Ordinance No. 94-13-108 granted a rezoning for 30 acres at Tax Map 78, parcel 404 from R-3 Residential to Planned Unit Development (PUD). Several conditions were placed on the 1994 rezoning case, including:

1. No more than 50 total dwelling units.
2. Single-family detached units must be at least 50% of the total units.
3. Final development plans must minimize woodland disturbance and steep slopes.
4. A note shall be added to all subdivision/site plans for the property referencing the location and potential noise impact of operations at the Frederick Municipal Airport and the Frederick City Firing Range.

A Phase II PUD Plan for 50 dwelling units was subsequently submitted; is conditional approval from 1995, however, has expired because no final plats were recorded. In January 2003, the applicant submitted an inquiry concerning the revival and revision of the Phase II PUD Plan in light of the Moderately Priced Dwelling Unit Ordinance adopted in November, 2002. The development was determined to be subject to the MPDU requirements, due to the project's status; as

a result, a minimum of 12.5% of the total dwelling units must be provided as MPDUs.

Hailey Development has now requested to modify Condition No. 1 of the rezoning to permit an increase in the maximum number of dwelling units from 50 to 58 in order to meet the requirements of the MPDU Ordinance while retaining 50 dwelling units as market rate unit.

The applicant is proposing 8 MPDUs, which is one more than the MPDU Ordinance would require (12.5% of 50 market priced units = 6.25 MPDUs).

The Planning Commission reviewed a sketch plan submitted by the applicant and provided feed back on several design options for the lay out of the proposed 30 single family and 28 town homes. On October 15, 2003, the Planning Commission voted 4 – 2 (1 abstention) to approve the modification of Condition No. 1 to Ordinance 94-13-108 to allow an increase in the maximum number of dwelling units from 50 to 58.

The Board finds that the requested modification of Condition No. 1 is appropriate and will further the goal of the MPDU Ordinance by providing an additional MPDU over and above the minimum required with this project. The remainder of Ordinance No. 94-13-108 remains unchanged except as specifically indicated in this Ordinance.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND that for the

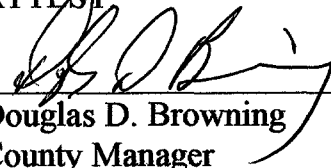
reasons set forth above in its Opinion/Findings the applicant's request is hereby GRANTED to modify Condition No. 1 of Ordinance No. 94-13-108 as follows:

1. No more than fifty-eight (58) total dwelling units.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that except as specifically amended in this Ordinance, Ordinance No. 94-13-108 remains unchanged.

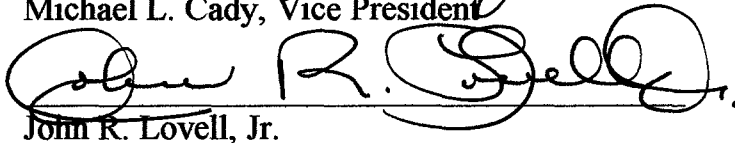
The undersigned hereby certifies that this Ordinance was approved and adopted on the 2nd day of December, 2003.

ATTEST:


Douglas D. Browning
County Manager

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND


Michael L. Cady, Vice President


John R. Lovell, Jr.


Jan H. Gardner

MSC 12/18/03

* Commissioner John L. Thompson, Jr., President, voted against the motion to adopt this Ordinance.

* Commissioner Bruce L. Reeder was not present and did not participate in this vote.